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Report of the Secretary-General on children and armed conflict in Nepal

Summary

The present report has been prepared in accordance with the provisions of Security Council resolution 1612 (2005). The report, which covers the period from 1 August 2005 to 30 September 2006, provides information on compliance and progress in ending the recruitment and use of children and other grave violations being committed against children in situations affected by armed conflict in Nepal. It reflects incidents of violations both before and after the April 2006 ceasefire.

The report notes that although many of the reported violations occurred prior to the ceasefire between the State and the Communist Party of Nepal-Maoist (CPN-M), there are still serious abuses being perpetrated against children. A serious concern since the April 2006 ceasefire is that recruitment and use, and abductions of children by CPN-M continue. The recent Comprehensive Peace Agreement between the Government and CPN-M, however, includes provisions which commit the parties to reintegrating children associated with armed groups into their families and marks the first time this issue has been addressed within the peace process.

The report contains a series of recommendations with a view to securing strengthened action for the protection of war-affected children in Nepal, including the need for dedicated child protection expertise in any future United Nations mission to Nepal.

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I. Introduction

1. The present report, prepared in accordance with the provisions of Security Council resolution 1612 (2005), covers the period from 1 August 2005 to 30 September 2006. The incidents of violations cited for the reporting period serve to illustrate the nature and the trends of child's rights violations in Nepal, both before and after the April 2006 ceasefire. The report focuses specifically on the killing and maiming of children, their recruitment and use as soldiers, abductions, sexual violence, attacks on schools and hospitals, and the denial of humanitarian access to children.

2. The monitoring and reporting task force on child's rights violations within the framework of Security Council resolution 1612 (2005) (monitoring and reporting task force), made up of United Nations, international and national non-governmental organizations, was set up in November 2005 to monitor and report on the six grave violations listed in the resolution. Members have a presence in 68 of the 75 districts of Nepal.

3. It should be noted that many of the reported violations occurred prior to April 2006 in the context of the armed conflict between the State and the Communist Party of Nepal-Maoist (CPN-M). Since April, with the restoration of democratic rights, the announcement of ceasefires by both sides and a series of agreements from continuing peace talks, hostilities between the two parties have ceased, resulting in a commensurate reduction in conflict-related abuses. However, there are still serious abuses being perpetrated against children and the issue of accountability for past

abuses has not been addressed in any meaningful way. A serious concern since the April 2006 ceasefire is that recruitment and use, and abductions of children by CPN-M continue.

4. However, the recent Comprehensive Peace Agreement signed by the Government and CPN-M on 21 November 2006, which includes provisions committing the parties to reintegrating children associated with armed groups into their families, marks the first time this issue has been addressed within the peace process.

II. Political, military and social developments

5. Nepal has experienced an internal armed conflict since CPN-M launched its insurgency in February 1996. At the beginning of the conflict, security operations were conducted by the Nepal Police, later reinforced by the establishment of the Armed Police Force. In November 2001, the Royal Nepalese Army (RNA)[1] was mobilized to combat the growing insurgency and in November 2003, the Nepal Police and Armed Police Force were placed under the "unified command" of RNA for joint counter-insurgency operations. Two attempts at peace negotiations between the Government and CPN-M after the 2001 and 2003 ceasefires were unsuccessful. The armed conflict then intensified, with many reported international humanitarian law and human rights violations.

6. On 1 February 2005, King Gyanendra Bir Bikram Saha Dev declared a state of emergency, suspending some fundamental rights, including freedom of assembly and expression and rights related to preventive detention. The state of emergency was revoked in April 2005, although the King exercised executive authority directly until April 2006.

7. On 3 September 2005, CPN-M announced a three-month unilateral ceasefire that was not reciprocated by the Government. In early October 2005, the Government announced that municipal elections would be held on 8 February 2006 and parliamentary elections by April 2007. An alliance of seven political parties, which had opposed the royal takeover and refused to accept the King's executive role, decided to boycott the municipal elections and announced a campaign of protest rallies and demonstrations across the country. CPN-M declared that it would disrupt the elections.

8. On 22 November 2005, the Seven-Party Alliance (SPA) and CPN-M announced their common adoption of a 12-point "letter of understanding", including a call for an "end to autocratic monarchy" and the election of a constituent assembly. The "understanding" committed CPN-M to multiparty democracy, human rights and the rule of law, and stated that the armed CPN-M force and RNA would be kept "under the supervision of the United Nations or any other reliable international supervision" during constituent assembly elections. In early December 2005, CPN-M extended its ceasefire by one month; that action again was not reciprocated. The unilateral ceasefire ended on 2 January 2006 with CPN-M stepping up its military activities.

[1] Until 18 May 2006, the armed forces of Nepal were referred to as the Royal Nepal Army. Since then, the armed forces are referred to as the Nepal Army.

9. There have been important developments since September 2006, including the signing of the Comprehension Peace Agreement. A subsequent understanding was reached between the Government of Nepal, CPN-M and the United Nations about the modalities for the management of arms and monitoring of the Nepal Army and the People's Liberation Army (PLA). A proposal from the Secretary-General to deploy an advance team of monitors and election personnel was also endorsed by the Security Council on 1 December 2006 (see S/PRST/2006/49).

Parties to the armed conflict in Nepal

10. The three branches of the government security forces, the Nepal Army, the Armed Police Force and the Nepal Police, have been involved in the armed conflict.

11. All CPN-M-affiliated organizations have also been involved in the armed conflict. PLA, the military wing of CPN-M, has benefited from the active support of the full and part-time militia as well as from party members and members of cultural groups. These CPN-M organizations not only served as a means of recruitment, but also took an active part in intelligence activities or support to PLA during military operations. The CPN-M-affiliated organizations include the CPN-M student wing, the All Nepal National Independent Student Union-Revolutionary (ANNISU-R), and its women's association, the All Nepal Women's Association-Revolutionary (ANWA-R).

III. Grave violations of children's rights

A. Recruitment and use of children in armed forces and groups

1. Government forces

12. There have been only a small number of reports of recruitment of children into the State security forces; however, the use of children by the security forces as messengers, spies or informants has been well documented.

13. The practice of forcing information out of children who surrendered to the security forces or who were captured and detained in State custody is especially prevalent. Many children were forced to disclose information about their past activities with CPN-M, provide sensitive information to RNA and sometimes guide the security forces to the physical locations of CPN-M camps, thus putting their lives further at risk. Moreover, children who were arrested by RNA, sometimes after having escaped from CPN-M, were subsequently detained illegally in locations such as RNA barracks because of their previous association with CPN-M. A large majority reported that they were subjected to threats, ill-treatment or torture by army personnel to extract information. Some were detained under anti-terrorist legislation, in violation of international standards.

2. Communist Party of Nepal-Maoist (CPN-M)

14. There are no overall figures for the number of children associated with CPN-M, as human rights monitors and child protection agencies were denied access to children in affected areas. However, it is believed that CPN-M has recruited several thousand children over the years and that they form a large part of the PLA

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troops, as well as a large number of the cadres in the other organizations inside CPN-M.

15. The documentation of individual cases of children used/recruited by CPN-M has become easier, with some of the constraints such as lack of access or fear of immediate retaliation being reduced as a result of the ceasefire. During the reporting period, 512 individual cases of recruitment by CPN-M have been documented, 40 per cent of them girls. Girls provided detailed accounts of their military experience, such as a 13-year-old girl who underwent military training before joining the Dalit Mukti Morcha militia group. Information received regarding the composition of CPN-M and allied militia groups indicates a large presence of females, approaching 50 per cent in some cases. A 16-year-old girl from Sindhupalchowk district who was interviewed stated that she had trained with nine other persons to produce and operate socket bombs; half of the trainees were female. The youngest child was an 8-year-old schoolboy from a disadvantaged community of the Mid-western Region, used as messenger for over a year and a half. Of these 512 children, only 172 are known to have returned to civilian life. The most affected areas are the Mid-western Region and the Far-western Region.

16. During the 10 years of conflict prior to the April 2006 ceasefire, CPN-M instituted special recruitment campaigns, such as the "one family, one member for the Party", where children were recruited, forcibly or "voluntarily".[2] But the process of drawing children into the movement was also carried out through the community activities of CPN-M cultural groups, the full or part-time militias and sister organizations, such as ANNISU-R, ANWA-R, or directly by PLA. The widespread practice of mass abductions, forced participation in mass meetings and cultural events in rural areas has played a decisive role in funnelling children into the various CPN-M organizations to support the CPN-M "cause" and subsequently to be involved directly or indirectly in CPN-M military activities. For example, a 12-year-old boy from Kalikot district was attracted by the political sessions and cultural programme regularly carried out in his school by ANNISU-R. He started being active in CPN-M by helping to initiate student's unions before undergoing military training, during which he learned how to use guns, bombs and other weapons. He then joined PLA and took part in military operations before he escaped after two years.

17. Children from all CPN-M organizations provided support to PLA in various capacities: as fund-raisers, mobilizers, messengers, spies, or providers of food or shelter. Children were also used as sentries, bodyguards, logistics assistants, combatants and officers in PLA. Information was collected about the use of children as PLA combatants during clashes in Palpa (January 2006), as well as testimonies about the significant number of children used in supporting roles (porters) during a PLA attack in Panauti, Kavre district (February 2006), and during a clash in Khidim, Arghakanchi district (February 2006).

18. CPN-M placed strong emphasis on mobilizing the Nepali youth population through ANNISU-R, which has been very active over the past 10 years. ANNISU-R has committees on university campuses and has also, more disturbingly, set up committees and children's associations in primary and secondary schools that in

[2] Under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, "voluntary" recruitment of children under the age of 18 by non-State actors is not recognized.

turn form CPN-M-affiliated area units. Activities carried out by ANNISU-R are political, but also serve to enrol children in other parts of CPN-M and spread the Party's political ideology by holding political lectures in schools.

19. A large number of children interviewed by task force members have also been part of the CPN-M militia, otherwise known as the Jana Militia. The militia was initially set up by the Party to ensure the protection of villages as well as to carry out political and indoctrination meetings/collect taxes/supervise or directly take care of administrative tasks carried out by the State Village Development Committee secretaries in the communities. The low-level cadres in the part-time militia are generally unarmed, whereas the full-timers (known as "whole-timers") have unsophisticated weapons.[3] Children in the part-time militia are generally between 10 and 16 years old and carry out propaganda activities, distribute CPN-M newspapers or serve as spies and messengers. However, the "whole-timers" are usually not posted in their district but are rather deployed in other areas to carry out strategic activities such as logistical support to PLA. Officially, only children over 16 years of age can join the "whole-timers", but some are much younger. Adults and children alike are given one-month training on personal security, military tactics and political ideology. The children who are "whole-timers" no longer live with their parents or go to school; all their activities are connected to the Party. They also take part in regular Party activities, such as working with the CPN-M "area in-charge", assisting the "people's courts",[4] collecting "voluntary" donations or forcefully extorting money from the general population. Being a "whole-timer" can lead to the next step of joining PLA.

20. The general practice of PLA is to enrol children above the age of 16 after an initial period as members of the CPN-M militia, according to the statements collected from PLA field commanders such as in Siraha district, Eastern Nepal, in August 2006. However, according to PLA sources, children particularly keen to join are also integrated without following regular procedures. There were 72 documented cases of children newly recruited into PLA after April 2006, the youngest being 12 years old. For example, in the Eastern Region, the Office of the United Nations High Commissioner for Human Rights (OHCHR) confirmed the abduction by PLA of five boys between the ages of 13 and 17 from the Bhanubhakta Secondary School, Mangalbare-4, Ilam town. The families of the abducted children maintain that the children were forcibly taken by CPN-M and have demanded their safe release. However, CPN-M has yet to release the children.

21. Of further concern is the active recruitment of children carried out by CPN-M since the April 2006 ceasefire. A total of 154 new incidents in all five regions were documented from May to September 2006, of which 72 involved recruitments into PLA and 82 into other CPN-M-affiliated organizations, including militias. The total number of newly recruited children is believed to be much higher, as many incidents reported could not be investigated owing to the lack of resources. Among the 154 cases, 2 took place in May, 3 in June, 24 in July, 84 in August and 41 in September. It should be noted that most of these children were enrolled in schools at the time of their recruitment. Some of the 72 recruited into PLA were promised money by CPN-M recruiters and/or employment in the still to be formed new national army.

[3] They include katuwa (home-made guns), pressure cooker bombs, socket bombs and .303 rifles.

[4] People's courts are set up by CPN-M to "adjudicate" civil and criminal matters, but are not part of the State justice system.

22. There has been no sign of significant releases of minors by CPN-M in any of the five regions of Nepal. A small number of children reportedly succeeded in escaping and returning home and, in a few isolated cases, did so after negotiating with CPN-M leaders themselves. It is believed that a number of teenage boys may have left the country to avoid forced association with CPN-M. Other protection mechanisms developed by families have been to keep their children away from schools to avoid possible recruitment or to marry their teenage daughters as early as possible.

23. The security situation of those who escaped was delicate, as they feared re-recruitment or punishment by CPN-M if they returned to their communities and, prior to the ceasefire, possible arrest by the security forces. Before April 2006, some of them chose or were forced to "surrender" to the State authorities, hoping for a peaceful return to civilian life. Protection agencies expressed serious concerns about the lack of a proper mechanism within the then Government to deal with persons "surrendering" to the State authorities and the absence of special provisions for dealing with juveniles. Despite several requests to the State authorities, no practical solution was put in place to address protection concerns, such as the absence of a tracking mechanism for those juveniles who allegedly surrendered over the past few years, some of whom were reportedly sent abroad for employment.

Unlawful detention of children accused of association with CPN-M

24. On 26 November 2001, the then Government promulgated an anti-terrorist law, the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO). The Ordinance lapsed at the end of September 2006 and has not been renewed. A significant number of children were captured by RNA or arrested by the Nepal Police and the Armed Police Force because of their alleged association with CPN-M. The legality of their subsequent detention, including the lack of due process and their treatment, was a major concern.

25. From 2001 to 2006, six TADO ordinances and one Act were promulgated consecutively, all providing powers to hold persons in preventive detention for up to 12 months if there were reasonable grounds to believe that they should be prevented from committing any TADO offences, as well as to hold in pre-trial detention persons suspected of having committed such offences. During the reporting period, task force members documented the cases of 195 juveniles held under TADO in various places, including army barracks, police stations, prisons and high security centres.

26. Among the 195 children, 43 per cent were below the age of 16 at the time of their arrest, the youngest being 11 years old. Fifty-eight were girls (30 per cent). Some 73 per cent identified RNA as the arresting authority, while the remaining children identified the police or the Unified Command. A small number identified the Armed Police Force. Most of these children were detained in army barracks and base camps and did not have any contact with their families. The majority claimed to have been held incommunicado when detained by RNA for periods sometimes amounting to six months, in violation of international standards. For example, a 16-year-old boy in the Morang High Security Centre has been detained for 10 months with no means of communicating with his relatives.

27. According to the findings of the monitoring and reporting task force, the majority of the children held under TADO were victims of ill-treatment or torture

after their arrest, mainly during the initial interrogations. More than 80 per cent of the 101 children who responded to the interviews by the task force provided detailed accounts of ill-treatment and torture. The methods of torture included blindfolding and handcuffing for extended periods of time, beatings with sticks mainly on the soles of the feet, kicking and punches on the head and the chest. Some children also reported electric shocks, water immersion until suffocation and mock executions.

28. In May 2006, the new Government publicly announced that all detainees held under TADO, including juveniles, were to be released. Documentation has indicated that at least two juveniles are still kept in detention under other offences, but most of the others are thought to have been released. The task force members documented the situation of two girls, 15 and 17 years of age, both formerly associated with CPN-M, who are now charged with murder and are detained in the Nuwakot District Police Office together with other CPN-M members.

B. Abduction

Communist Party of Nepal-Maoist (CPN-M)

29. Children were abducted by CPN-M throughout the reporting period for various purposes: some were taken to indoctrination programmes or enrolment campaigns; others were captured as part of the CPN-M extrajudicial "law enforcement" practices, as punishment for alleged offences.

30. Mass abductions were reportedly perpetrated throughout the period of active conflict, sometimes targeting thousands of individuals, including students and teachers taken away from schools, usually in rural areas. Seventy-nine such incidents were documented from August 2005 to date. For instance, during the CPN-M September/December 2005 unilateral ceasefire, national human rights organizations reported thousands of abductions, including some 3,000 children. A number of these incidents were documented by the monitoring and reporting task force, such as one that took place in Rukum on 22 September 2005 when hundreds of students were brought from different schools to a meeting held by ANNISU-R. A similar incident occurred in Dang on 14 November 2005 when some 300 students were taken away from their schools for three consecutive days. After April 2006, mass abductions reportedly decreased compared to the pre-ceasefire period, largely because the CPN-M has since been able to operate openly. Nevertheless, 23 large-scale abductions were documented after April, during which children had to take part in political mass gatherings, "amsabha", in Mugu, Kanchanpur, Kailali, Palpa, Kavre, Kathmandu and Morang.

31. The CPN-M also abducted civilians including minors, as a punishment for alleged offences, sometimes coupled with forced labour. Forty-five such abductions for "law enforcement" purposes took place, mostly after the April 2006 ceasefire. This fits into the larger pattern of abductions documented all over the country, where CPN-M has openly set up "people's courts" and its own form of "justice". Children as young as 11 years of age have been taken into captivity and accused of crimes such as sexual violence, illicit relationships (outside of marriage), petty crimes, public disorder, or more serious incidents such as rape or murder. As an illustration, six children between 14 and 16 years of age were among the 10 persons abducted on 20 June by CPN-M and found two days later in the Madeshi Liberation

Front office in Nawalparasi district, where they were being held on the accusation of theft.

C. Incidents of killing and maiming

32. During the reporting period, 149 incidents of killing and maiming of children were documented, in which 113 children were injured, while 36 others lost their lives, their average age being less than 10 years. Others were executed or disappeared, most assumed dead by their families. Child protection agencies have documented at least 37 cases of children considered as disappeared after arrest by the security forces.

1. Government security forces

33. During the conflict, the government security forces frequently failed to respect the principles of distinction and proportionality under international humanitarian law which oblige parties to a conflict to distinguish between civilians and combatants and to take all necessary measures to protect civilians during attacks on military targets. For example, in September 2005, RNA opened fire indiscriminately during an operation in Palpa district on entering Bahadurpur village, injuring two children. In Nepalgunj, in January 2006, a 15-year-old girl was killed by a bullet while she was inside her home as a result of indiscriminate firing by a police patrol. Furthermore, investigations conducted by OHCHR into 13 military operations or clashes that took place between the end of the CPN-M unilateral ceasefire and the beginning of March 2006 showed that as a result of aerial bombardments from helicopters by the National Army, two children were killed and six others injured.

34. Children have also been victims of excessive use of force by the security forces to suppress demonstrations. During the April 2006 protests, monitoring activities clearly established that the three branches of the security forces were responsible for serious human rights violations in the context of policing demonstrations, resulting in massive injuries and loss of life owing to excessive use of force. Two hundred and twenty-four children below the age of 18 were injured from 6 to 24 April while participating in the demonstrations or as bystanders. In Banepa, Kavre district, on 9 April, a 14-year-old boy was among the victims when the National Police opened fire on a crowd of demonstrators. In Kathmandu district, on 20 April, two teenage boys suffered bullet injuries fired by the Armed Police Force at a demonstration in Kalanki. Other similar incidents were documented in Kathmandu, Argakanchi, Banke and Chitwan districts.

2. Communist Party of Nepal-Maoist (CPN-M)

35. CPN-M also fails to distinguish between civilian and military objects. For example, in an incident in Jhapa district, a landmine was planted at Surunga bridge, targeting security forces carrying school examination papers on 5 April 2006. While six security personnel were killed in the subsequent crossfire, two civilians, including a 5-year-old boy, were injured. At the same time, CPN-M increasingly drew the conflict into urban, civilian populated areas without taking adequate measures to protect the civilian populations. Since the April 2006 ceasefire, there have been no cases of children killed or injured as a result of military operations in the context of a conflict.

Mines and improvised explosive devices

36. During the reporting period, there were 63 documented incidents related to explosive devices which killed 29 children and injured 70 others although according to a survey carried out by the Mine Action Unit in the United Nations Children's Fund (UNICEF), the number of such incidents is much larger. The survey, which was carried out during the first six months of 2006, also indicated that children were far more affected than adults and represented 78 per cent of the reported casualties.

37. Most of the incidents related to improvised explosive devices were related to CPN-M activities — owing to devices left behind after military operations. In Panauti, for instance, three children were killed in February 2006 while playing with an improvised explosive device left behind by PLA after an attack that same month. Casualties from incidents involving improvised explosive devices have been reduced, although not entirely eliminated, during the post-ceasefire period, as demonstrated by 28 incidents reported since April 2006. For example, two children were injured in the explosion of a socket bomb, left by CPN-M in a primary school in Tanahu district on 13 May 2006.

D. Attacks on schools and hospitals[5]

38. The years of conflict have had a profound effect on children's education. The period from August 2005 to September 2006 saw continuous violations of the right to education. Task force members have documented 327 violations in 57 of the 75 districts, which are only indicative of the extent of the problem. The abduction or forced participation of pupils and teachers in political indoctrination programmes and rallies, the use of school buildings as army barracks or temporary shelters by both the security forces and CPN-M, the destruction of schools during military operations, the forced closure of educational facilities and the forced and illegal "tax" collection imposed on teachers, and threats by CPN-M against teachers and school administrations are examples of ways in which the right to education has been severely limited.

1. Government security forces

39. Since the April 2006 ceasefire, military attacks in and around educational facilities have stopped. Before then, educational buildings were attacked, sometimes when schoolchildren were present during school hours. For example, in January 2006, members of PLA in Syangja district took refuge in a school while 130 schoolchildren and 5 teachers were present. RNA fired from a helicopter through the classroom window and dropped a bomb nearby, while PLA fired at the helicopter from civilian houses located in the same area. During an aerial attack in Sindhupalchowk district in March 2006, bombs were fired against CPN-M armed elements from helicopters by RNA in a civilian-inhabited area and in close proximity to schools, causing extensive damage to classrooms and school buildings.

40. The occupation of or settlement in the immediate vicinity of educational facilities by parties to the conflict has not helped to keep the conflict away from the schools, as denounced by numerous actors, such as the National Coalition for Children as Zones of Peace, a network of 36 organizations. Some schools have been

[5] There were no reported incidents of attacks on hospitals during the reporting period.

temporarily or more permanently occupied by security forces in various parts of the country, such as in Khotang, Myagdi, Syangja, Tanahu, Bara, Kathmandu, Rukum, Banke and Sindhuli districts. Since the April 2006 ceasefire, most of the facilities occupied by the National Army been vacated, even if the presence of police posts is still reported in some schools, such as the Balmandir Primary School in Sindhuli district.

2. Communist Party of Nepal-Maoist (CPN-M)

41. CPN-M practices have not changed since April 2006. Schools have been used and are still being used for different purposes, ranging from shelter for PLA, as demonstrated in July 2006 by the occupation of a secondary school in Surkhet district, to military training sessions, such as those organized in September 2006 in one school in Kaski district. PLA has routinely set up temporary or mobile base camps, conducted military training and used buildings as canteen, shelter or storage facilities. School premises have been further used to accommodate "people's courts", such as in Kanchanpur in August 2006, or as "detention" facilities, as documented in Bara in May 2006.

42. Teachers have also faced pressure to give part of their salary — one day per month — to CPN-M. Those refusing were reportedly threatened seriously, such as in Kavre (August 2006). Such forced practices were reported in Nuwakot and Kavre (June 2006), Morang (July 2006) and Kathmandu and Sankhuwasabha (September 2006). In a new development, schoolchildren are now also being targeted as part of the CPN-M "donations" campaigns.

E. Sexual violence

43. The incidents of grave sexual violence against children committed by the parties to the conflict documented by the monitoring and reporting task force are very few — seven by security forces and one by CPN-M, although the figure is likely to be much higher. The reported incidents took place in all five regions with half of the victims being younger than 15 years of age.

1. Government security forces

44. Members of security forces were involved in seven incidents. Three victims were raped in the forest, one was drugged and raped for four days by an RNA soldier and two were victims of attempted rapes, one at a fair and one in the field. The last victim is a 16-year-old girl who was sexually assaulted while being interrogated in army custody late in 2005 in the Central region.

2. Communist Party of Nepal-Maoist (CPN-M)

45. One allegation of rape committed by a CPN-M cadre has been documented. In Kanchanpur, a 15-year-old girl was reportedly lured into the jungle in the night on the pretext of meeting a friend. While being raped, her hands were tied and she was threatened with death. When the father complained to CPN-M, they called the victim and perpetrator and took the perpetrator inside a house, where he allegedly confessed to having committed the crime. CPN-M beat him and then reportedly forced the victim to accept that it was consensual sex.

46. Three victims of rape were reportedly pressured by CPN-M not to register the case with the police, arguing that the incidents were under CPN-M investigation. In Siraha district, for example, a 65-year-old civilian handed over by the villagers to CPN-M fled from captivity and the father of the 10-year-old victim was prevented by the community from registering the case with the police.

F. Denial of humanitarian access

1. Government security forces

47. Humanitarian access to health services has been affected by the conflict in a number of ways. Health workers in several districts reported that they were forced into providing "intelligence" on CPN-M activities by government and military officials when visiting district headquarters. Senior officials of the (former) Royal Nepal Army noted to United Nations inter-agency missions in the Eastern Region (March 2006) and Mid-western Region (December 2005) that they routinely blocked the supply of drugs and medical consumables to some rural health posts because of concerns that they "provided military advantage" to CPN-M.

2. Communist Party of Nepal-Maoist (CPN-M)

48. Access to the areas outside the district headquarters has decreased year after year owing to insecurity and the restrictions imposed by CPN-M. Restrictions on non-governmental organization (NGO) activities have been a long-term problem. Approval from the "people's government" had to be obtained prior to carrying on operations, as illustrated by the forced registration of NGOs with CPN-M in Baglung, Morang and Parbat in July 2006. Forced contributions were imposed on NGOs and on humanitarian workers, such as the 5 per cent of monthly salary required from NGO personnel in Dadeldhura in August 2006. Furthermore, humanitarian workers allegedly accused of gathering intelligence for the Government were abducted in Taplejung in November 2005. Other recent challenges include CPN-M interference in staff recruitment and the targeting of specific communities and individual beneficiaries for assistance, which have led to humanitarian programmes facing general access denial in a number of districts, notably in Rolpa district, which falls within the CPN-M "Magarat Autonomous Region", and from where an international health NGO withdrew operations in June 2006.

49. Prior to the April 2006 ceasefire, CPN-M had been found to be demanding around 25 per cent of drugs and other medical consumables from health posts in a number of districts visited by United Nations inter-agency missions, as well as routinely demanding financial contributions of around 5 per cent of salary from health workers. There was almost no monitoring or supervision of health services in areas away from district headquarters, largely as a result of access restrictions imposed by CPN-M.

50. The bandhs imposed by CPN-M have also seriously impacted the development of aid programmes, such as the one imposed in Panchtar for several months as a protest against the establishment of Unified Security Posts. It not only affected the provision of basic supplies to the population but also caused the death of a child who could not be treated on time in hospital. The disruption of essential supplies was also used as a tool to force the civilian population away from strategic areas

such as in Terathum district in March 2006, when CPN-M instructed the whole population to vacate the town and subsequently cut off the water supply. Similar incidents were documented in February 2006 in Jajarkot and Rukum districts.

51. While physical access to most areas of the country has generally improved since April 2006, CPN-M restrictions and demands on programming remain in place in a number of areas and have led to temporary programme suspensions by a number of organizations, including NGOs in Parbat district in August 2006. Despite the ceasefire, CPN-M local leaders still regularly declare that development work implemented through local government will remain blocked in large areas of the countryside until such time as CPN-M is formally included in the interim Government.

52. Joint United Nations advocacy efforts around the basic operating guidelines[6] have been intensive over the reporting period. In December 2005, the CPN-M leadership issued a public statement committing to adherence with the guidelines, which followed a similar commitment made by the Government in July 2005. Systematic contacts with CPN-M at the central and regional levels were established over the reporting period and used to resolve a number of blocks imposed on programming, including when trucks of humanitarian assistance had been hijacked. Despite these positive developments, it is clear that policy directives regarding operational space for humanitarian programmes issued by the central leadership of CPN-M are not fully understood or adhered to by junior Party workers at the local level.

IV. Dialogue, action plans and monitoring and reporting to redress violations of children's rights

A. General coordination on child protection issues

53. The monitoring and reporting task force has been active in the area of monitoring and reporting on the six grave violations listed in the resolution. The members endorsed terms of reference, developed common monitoring practices and agreed on the geographical distribution of tasks. The work of the task force is also linked to service provisions to the victims and most members are engaged in programmatic responses.

54. United Nations agencies and international NGOs are organized in a forum where general child protection matters are discussed and issues are referred to programmatic working groups. Since 2005, a working group, comprising the United Nations, international NGOs and NGOs has been actively coordinating activities undertaken in the area of children associated with armed forces and armed groups. Efforts were made to develop coordinated advocacy and operational responses. Children as Zones of Peace was set up in 2001 to advocate for children's basic rights to survival, development and protection, especially for the protection of children during the conflict. This network is an important vector for information-

[6] In 2003, the United Nations, donors, international NGOs and NGOs developed a set of measurable working principles, basic operating guidelines, based on established and accepted humanitarian principles and international legal standards that those organizations apply and advocate to ensure operational space for humanitarian agencies.

sharing and advocacy efforts, as illustrated by recent meetings conducted with student unions and political parties to prevent the manipulation of children by political actors.

B. Dialogue with the parties

55. Both parties have been constantly reminded of their obligations with regard to the protection of children in the context of the armed conflict. Advocacy efforts have been further expanded since the setting up of the monitoring and reporting task force on children and armed conflict. A dialogue was initiated in early January 2006 with both parties to the conflict about the implementation of resolution 1612 (2005) and a concept paper on the monitoring and reporting mechanism in Nepal and relevant legal documents were shared. Both parties were requested to appoint a contact person to facilitate the exchanges on this matter.

56. Pending the appointment of these focal points, dialogue continued on the ground between task force members and the two parties to the conflict. Within the United Nations system, OHCHR and UNICEF held discussions with both the Government and CPN-M, advocating and providing technical inputs about the inclusion of child protection issues in the various agreements and accords in the course of the peace process. Concerns were also raised about ongoing violations and abuses and about the inclusion of child-specific provisions in the peace negotiations. Similar efforts were deployed by international NGOs and NGOs, such as Children as Zones of Peace, which issued several press statements and a public report on child rights violations committed during the first 100 days of the new Government.

1. Government of Nepal

57. After the initial contacts established by the United Nations Resident Coordinator and the Government of Nepal in January 2006, a meeting finally took place in March 2006 between the Resident Coordinator, UNICEF and OHCHR representatives and the Joint Secretary to the Ministry of Foreign Affairs, following which the mechanism was officially introduced. It was agreed that the Ministry of Foreign Affairs would act as government focal point and that an inter-ministerial working group would be set up in order to have a forum where the reports and outcomes of the monitoring activities could be discussed. After the change of Government in April 2006, further approaches were made to the Peace Secretariat, the Ministry of Foreign Affairs and the Ministry of Children, Women and Social Welfare. The latter Ministry was designated as the new government focal point for all issues related to the monitoring and reporting mechanism. A request was made to set up a working group but no steps have yet been taken in this regard.

2. Communist Party of Nepal-Maoist (CPN-M)

58. Simultaneously, similar efforts were made with the CPN-M leadership, whose representatives acknowledged receipt of the documents in early February 2006 and discussed the implementation of resolution 1612 (2005) with the representative of OHCHR. In March 2006, a joint mission of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, UNICEF and OHCHR met the CPN-M Human Rights, Development and Foreign Relations representative for the Western Region. Despite advocacy efforts and regular contacts undertaken

with CPN-M national leaders since then, a focal point was only appointed in late September 2006.

59. On the basis of commitments expressed by the parties, protection agencies have made repeated attempts to advocate for the release of children with district or national-level CPN-M representatives; most have proved unsuccessful. For instance, 17 children, the youngest of whom is 13 years old, were incorporated into PLA at the end of August 2006 in Dolakha district despite the repeated public protests of their families. While United Nations agencies have been advocating with the different levels of the CPN-M hierarchy, offering to facilitate and support the children's return, no progress was reported as of 30 September. In addition, there has been no progress to date by CPN-M to prevent the use of children or to separate children from their ranks.

C. Follow-up and programmatic responses

1. General child protection initiatives

60. Despite Nepal's ratification of several international instruments, including the Convention on the Rights of the Child, the process of incorporating international treaties into domestic law has yet to begin. The process of depositing a binding declaration by the Government of Nepal to the Optional Protocol to the Convention on the involvement of children in armed conflict is yet to be finalized. The Ministry of Children, Women and Social Welfare has initiated a review of the Children's Act that could strengthen the incorporation of international standards into domestic laws. UNICEF and OHCHR have proposed technical assistance. The same Ministry has also taken the initiative to review the juvenile justice regulations, which are currently far from ensuring the minimum standards of protection for children. In the area of law reform, strong advocacy efforts have been developed by human rights and child rights organizations to review the current legal framework. In particular, the Government of Nepal has been strongly advised to take steps towards the criminalization of the abduction, recruitment and use of children for military purposes, as well as the establishment of a rule of engagement specifically on children for the security forces.

2. Specific initiatives for children associated with armed groups and armed forces

61. Owing to access and previous security constraints, there are fewer programmatic responses for children associated with armed forces and armed groups. Nevertheless, some assistance mechanisms have been put in place for the children who were released by the parties or captured; children were sometimes handed over to child protection organizations. Shelters located mainly in Kathmandu were then able to provide alternatives for those who could not go back to their communities because of security concerns. Some were supported with education or vocational training, while others were assisted so they could return home safely. However, this system will not be sustainable should there be a larger beneficiary group.

62. Under UNICEF coordination, a working group focusing exclusively on issues pertaining to children associated with armed forces and armed groups was established in 2005 with the aim of developing coordinated advocacy efforts. The working group set up operational responses and regularly interacts with both parties.

After the April 2006 ceasefire, child protection agencies increased their efforts to separate children from CPN-M. An inter-agency workshop was held in June 2006 to raise awareness and mobilize stakeholders around the needs of children associated with armed forces and armed groups with the participation of the Government, United Nations agencies, international NGOs and NGOs representatives.

63. In September 2006, a field assessment was conducted by the children associated with armed forces and armed groups working group in six districts, covering four of the five administrative regions targeting the various stakeholders, including children themselves, parents, community leaders, civil society groups, NGOs, State and non-State actors. The objective was to better understand the situation of children who have associated with the armed forces and armed groups and to facilitate the development of a national strategy to respond to the problem. The working group is currently developing a one-year plan, including an initial emergency response mechanism. Efforts are also being deployed to develop working relationships with the Government and CPN-M.

64. So far, it should be highlighted that child protection agencies have faced major difficulties in obtaining the separation of large numbers of children from CPN-M, in actively following up family requests for assistance to get their children out as well as in addressing the continuous and current cases of recruitment.

V. Recommendations

65. The following recommendations are made:

(a) All stakeholders must fully respect applicable international law concerning the protection of children, including in the context of the peace process, and ensure that specific provisions for children are included at all steps of the negotiations;

(b) CPN-M must immediately end the practice of use and recruitment of children, as well as cease any new recruitment of children, and must immediately engage with the United Nations country team for an action plan to ensure transparent procedures for release and verification of all children within the People's Liberation Army and all other CPN-M-affiliated organizations;

(c) CPN-M must immediately cease all occupation and use of schools for political and military reasons, and all parties must ensure that children and teachers are not indoctrinated or forced to take part in political activities;

(d) I urge the Government of Nepal to finalize the process of depositing a binding declaration to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, as well as amending the national framework to ensure the criminalization of recruitment and use of children in the domestic laws;

(e) I call on the Government of Nepal to carry out a review of all juvenile justice regulations with immediate effect, with the assistance of the United Nations country team, to bring them in line with international standards and norms, with the aim of preventing the abuses which were committed in the context of the application of the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO);

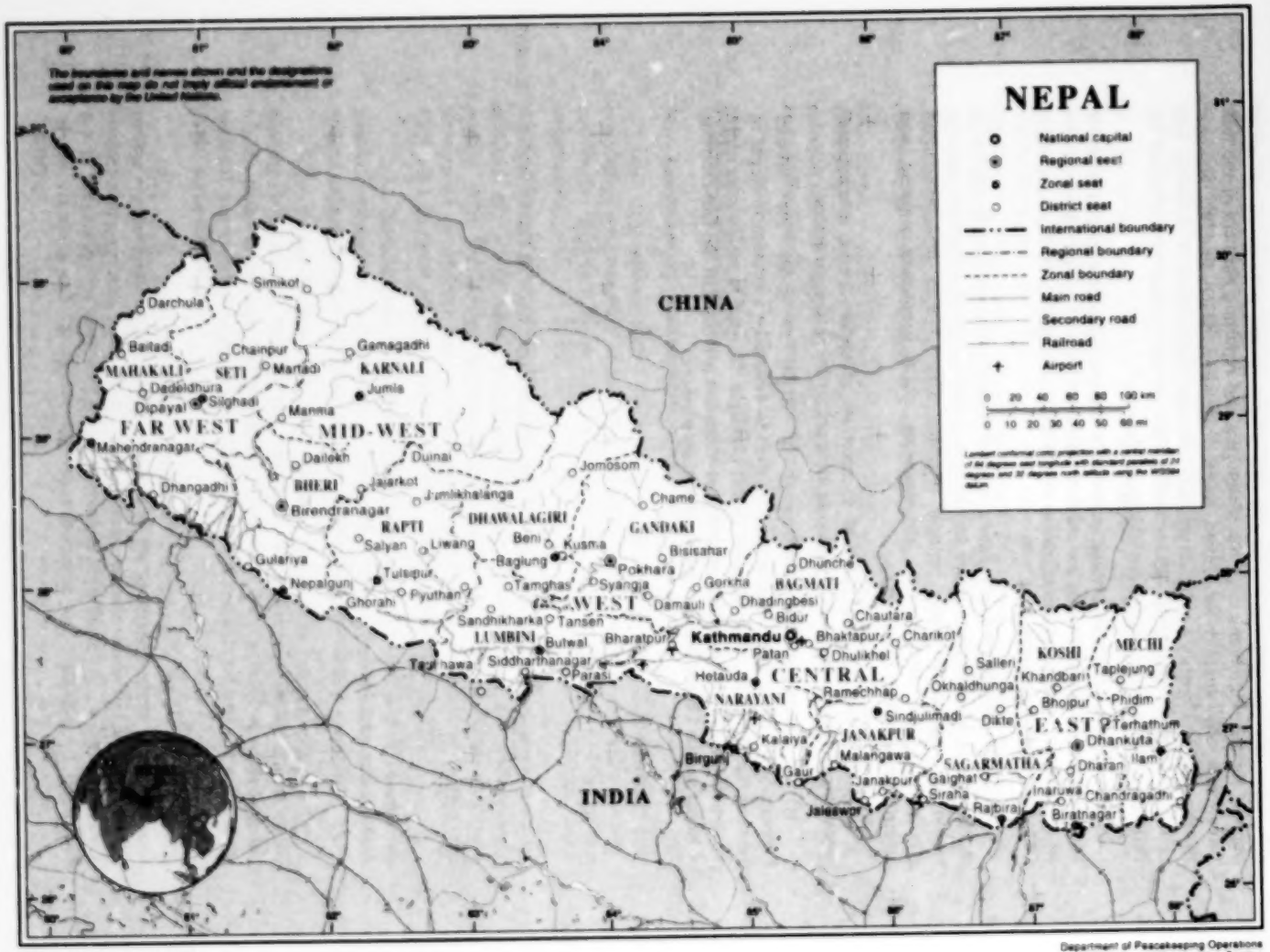
(f) The international community and donors should provide all necessary support for the reinforcement of the monitoring and reporting partners of the task force, inter alia, support for United Nations agencies, NGOs and the National Human Rights Commission, ensuring that adequate information is collected and communicated to appropriate actors and bodies on the impact of violations on children in this new phase of peacemaking in Nepal;

(g) I call on the international community and donors to give special attention and ensure sufficient resources are made available to support programmatic efforts for the release, return and reintegration of children associated with PLA and other CPN-M-affiliated organizations;

(h) The mandate of any future United Nations mission should explicitly incorporate child protection issues and include a specific child protection capacity within the mission to ensure optimal interface with UNICEF and other child protection actors, and provide all necessary child protection training and mainstreaming within that mission;

(i) I particularly urge CPN-M to meet its obligation under international humanitarian law to provide free access to all areas for humanitarian actors;

(j) I encourage the Government of Nepal to invite the Special Representative for Children and Armed Conflict to undertake a mission to Nepal in the near future to help draw attention to and highlight the need to mainstream child protection issues into the transition and post-transition priorities of the Government of Nepal and its United Nations and civil society partners.



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